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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,448	08/11/2000	Charles J. Zapiec	0273.301	9103
30332	7590	12/09/2005	EXAMINER	
JENNIFER MEREDITH MEREDITH & KEYHANI, PLLC 330 MADISON AVE. 6TH FLOOR NEW YORK, NY 10017			RUDY, ANDREW J	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/636,448

Applicant(s)

ZAPIEC ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 28,29,32 and 34-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28,29,32 and 34-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 28, 29, 32 and 34-50 are pending. Applicant cancelled claims 1-27, 30 and 31. Applicant's September 22, 2005 Amendment and REMARKS have been reviewed. The previous rejection is withdrawn pursuant thereto.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 28, 29, 32 and 34-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28, lines 6-10, are not clear. The claim first denies access to the Internet and follows this prior to providing a user identifier and client identifier. As such, the Examiner is not clear as to what the meets and bounds of the claim language represents.

### ***Claim Rejections - 35 USC § 103***

4. Claims 28, 29, 32 and 34-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Horne et al., US 6,233,604.

Van Horn discloses a graphical user interface to access a browser window process of automatically recording Internet activity by a user and automatically billing, e.g. software 90, port 160, to a server system, e.g. 659, for a report based upon billing usage time usage activity using a client device, e.g. 10, 110. Billing is tracked for each separate inquiry.

It is noted the previous 11/26/04 Official Notice is deemed conceded by Applicant as no traversal of the Official Notice was lodged. Also, Official Notice is taken that providing a user identifier, a client identifier and a client matter identifier associated with a report for billing purposes has been common knowledge in the consulting art

To have provided a user identifier, a client identifier and a client matter identifier associated with a report for billing purposes has been common knowledge in the consulting art, e.g. a patent searcher providing a service for a client, for Van Horn would have been obvious to one of ordinary skill in the art in view of Official Notice. The motivation for having done such would have been to use common knowledge billing procedures associated with time usage with Van Horn disclosure. Likewise, the dependent claims recited by the Applicant are all common knowledge features well known to computer users well before Applicant's filing date. To have incorporated such with Van Horn would have been obvious to one of ordinary skill in the art.

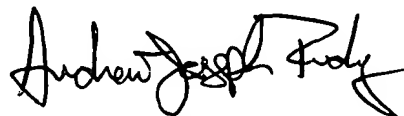
5. Further references of interest are noted on the attached PTO-892.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew Joseph Rudy  
Primary Examiner  
Art Unit 3627